

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. The parties appeared before the undersigned on October 5, 2005, for a hearing on the Motion to Withdraw as Attorney of Record [Doc. 13], and the Amended Motion to Withdraw as Attorney of Record [Doc. 14], filed on October 3 and 4, 2005, respectively, by Attorney Dennis B. Francis, appointed counsel for the defendant. Mr. Francis was present for the defendant, and Assistant United States Attorney Michael Winck appeared on behalf of the government. The defendant was also present.

In his initial motion [Doc. 13], Mr. Francis asks to withdraw because he has learned that the defendant has retained Attorney Bruce Poston to represent him. In the amended motion [Doc. 14], counsel contends that another basis to withdraw exists because a potential conflict of interest has arisen. At the hearing, Mr. Poston appeared and informed the Court that

the defendant's family had retained him to represent the defendant. The defendant confirmed that he wanted Mr. Poston to be his attorney and that he had no objection to Mr. Francis's withdrawal. The government did not object to the substitution of Mr. Poston for Mr. Francis.

Based upon the defendant's request for same, the Court **GRANTS** defense counsel's Motion to Withdraw as Attorney of Record [Doc. 13]. Attorney Francis is allowed to withdraw from the case, and Attorney Poston is hereby **SUBSTITUTED** as the defendant's counsel of record. With regard to the amended motion, the Court did not need to reach the issue of the potential conflict of interest. Because the Court has permitted Mr. Francis to withdraw for the reason stated in his original motion, his Amended Motion to Withdraw as Attorney of Record [Doc. 14] is **DENIED as moot**.

The Court reviewed the deadlines presently set in the case. Attorney Poston acknowledged these deadlines and stated that he was able to abide by them. He said that if, after reviewing the case, he felt that he needed additional time, he would file a motion requesting same. Accordingly, all dates presently scheduled will remain the same at this time.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge